

REMARKS

This application has been carefully reviewed in light of the Office Action dated May 11, 2007. Claims 1 to 4 are currently pending in the application, with Claim 1 being the sole independent claim. Reconsideration and further examination are respectfully requested.

Claims 1 and 2 were rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 4,549,355 ("Sauer"). Claims 3 and 4 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Sauer in view of U.S. Patent No. 2,873,341 ("Kutsay"). Applicant has reviewed the applied references and respectfully submits that the claimed invention is patentably distinguishable over the applied references for at least the following reasons.

Independent Claim 1 concerns a precision dendrometer that uses extension measurement bands as resistances for a Wheatstone Bridge type circuit. The extension measurement bands are mounted on an aluminum sheet having a first end coupled to a cylindrical body and a second end for contacting the plant being measured. Claim 1 has been amended to further describe this second end of the aluminum sheet as narrowing to an end for contacting the plant. Support for this amendment may be found at least in Figures 7 and 8 and beginning at line 25 on page 13 of the specification. This narrowing feature of the aluminum sheet reduces the amount of contact with the plant compared to other dendrometer arrangements that fully embrace the plant. Accordingly, the precision dendrometer set forth in Claim 1 is better able to adapt to different shapes and sizes of plants that might not be compatible with a dendrometer configured to fully embrace the plant.

The Office Action contended that the jaw connection block 23 and the elongated jaw 20 shown attached to the transducer member 15 in Figure 2 of Sauer correspond to the second end of the aluminum sheet recited in the claims. Even if this correlation were correct, which Applicant does not concede, the arrangement described in Sauer does not does not teach or

suggest that the end of the transducer 15 narrows to an end for contacting the plant. Rather, the contacting structure described in Sauer is an elongated jaw 20 which is larger than the end of the transducer 15 and therefore widens from the end of the transducer 15 and increases the area of contact with a plant. Arguably, Sauer teaches away from reducing the point of contact when it describes the elongated jaws as being necessary to reduce the compressive stress applied to the plant when Sauer's device is clamped to a plant. See Sauer, col. 2, lines 25-29.

Accordingly, Sauer is not seen to disclose or suggest the features of independent Claim 1. In particular, Sauer is not seen to disclose or suggest at least the features of an aluminum sheet on which extension measurement bands are mounted, the aluminum sheet narrowing to an end for contacting a plant.

Kutsay, which was applied in the rejection of dependent Claims 3 and 4, is not seen to remedy these deficiencies of Sauer. Specifically, Kutsay is not seen to disclose or suggest at least the features of an aluminum sheet on which extension measurement bands are mounted, the aluminum sheet narrowing to an end for contacting a plant.

Therefore, independent Claim 1 is believed to be allowable over the applied references. Reconsideration and withdrawal of the § 103(a) rejection of Claim 1 are respectfully requested.

The other claims in the application depend, either directly or indirectly, from independent Claim 1 discussed above and therefore are believed to be allowable over the applied references for at least the same reasons. Because each dependent claim is deemed to define an additional aspect of the invention, however, the individual consideration of each on its own merits is respectfully requested.

In view of the foregoing amendment and remarks, it is respectfully submitted that the present application is fully in condition for allowance, and that such action is earnestly solicited.

If any questions remain, however, the Examiner is cordially invited to contact the undersigned attorney so that any such matters may be promptly resolved.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension-of-time fees, to Deposit Account 502203 and please credit any excess fees to that deposit account.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP



Andrew D. Mickelsen

Registration No. 50,957

18191 Von Karman Ave., Suite 500

Irvine, CA 92612-7108

Phone: 949.851.0633 ADM:gmb

Facsimile: 949.851.9348

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